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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/545,192

05/18/2006

Lucas Everhardus Maria Langezaal

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07/18/2008

AKERMAN SENTERFITT

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EXAMINER

WILLIAMS, MONICA L

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

07/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/545,192	Applicant(s) LANGEZAAL, LUCAS EVERHARDUS MARIA	
	Examiner MONICA L. WILLIAMS	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08/10/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Species I, figures 1-3, claims 1-11 and 13-15 in the reply filed on 4/30/08 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by size. Is it a measure of length, width, diameter, etc.?

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether up to 99% of the mixture is compressed or if the mixture is compressed by 99% of its original size?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalbskopf (EP 0294261 A1).

6. In re claim 1, with reference to col.2 lines 5-13 and col.3 lines 8-30, Kalbskopf discloses a method of manufacturing a culture medium on which plants can be grown characterized in that it comprises the steps of a) mixing a particulate base material, chosen from at least one of organic and inorganic materials, with a thermoplastic biologically degradable binding agent, b) heating at least the binding agent in order to at least partly fluidize it, c) cooling the mixture so as to substantially solidify the binding agent and whereby at least part of the base material becomes bonded by means of the binding agent.

7. In re claim 2, with reference to col.4 lines 11-13, Kalbskopf discloses wherein the amount of binding agent is between 2-20% by weight related to the weight of the base material. This range meets the claimed limitation of "maximally 25% by weight".

8. In re claim 3, with reference to col.3 lines 8-16, Kalbskopf discloses after mixing the starting materials a shaping treatment is carried out.

9. In re claim 4, with reference to col.3 lines 8-30, Kalbskopf discloses the shaping treatment is performed between steps b) and c).

10. In re claim 5, with reference to col.2 lines 5-9, Kalbskopf discloses the organic base material consists of coco fibers.

11. In re claim 6, with reference to col.2 lines 5-9, Kalbskopf discloses the inorganic base material consists of rock wool.

12. In re claim 7 as best understood from applicant's disclosure, with reference to col.1 line 50 to col.2 line 4, Kalbskopf discloses the particulate base material has a diameter of 2-10mm. This range meets the claimed limitation of a maximum size of 10mm.

13. In re claim 11, with reference to col.4 lines 35-38, Kalbskopf discloses step c) is performed by means of a forced supply of gas.

14. In re claim 13 as best understood by applicant's disclosure, with reference to col.1 line 50 to col.2 line 4, Kalbskopf discloses during the shaping treatment a compression is performed on the mixture so that the bulk density of the shaped article is between .08-.30 g/cm³. Therefore it is inherent that a compression is performed somewhere up to 99%.

15. In re claim 14, with reference to col.2 lines 46-50, Kalbskopf discloses the melting range of the thermoplastic biologically degradable polymer is at a temperature ranging from 30-180 degrees, which falls within the broadly claimed limitation of 20-130 degrees.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalbskopf (EP 0294261 A1).

18. In re claim 15, with reference to col.4 lines 23-25, Kalbskopf discloses the heating step is obtained by the addition of hot air to the mixture. Kalbskopf does not specifically disclose that the hot air is steam. However it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided steam in order to provide more moisture to the medium.

19. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalbskopf (EP 0294261 A1) in view of Tonkin et al (6,615,537).

20. In re claim 8, Kalbskopf discloses the claimed invention except for a biologically degradable elastomer.

21. However, with reference to col.4 lines 52-62, Tonkin et al disclose a culture medium with a biologically degradable elastomer (polyether). The advantage of this is to hold water and provide more moisture for the plants. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the medium of Kalbskopf with a biologically degradable elastomer as taught by Tonkin et al in order to hold water and provide more moisture for the plants.

22. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalbskopf (EP 0294261 A1) in view of Hori et al (4,972,627).

23. In re claims 9 and 10, Kalbskopf discloses the claimed invention except for multiple layers of base material wrapped around one another.

24. However, with reference to col.3 lines 14-51 and Figures 14, 15, and 16, Hori et al disclose a culture medium with a first layer (152), second layer (141), and third layer (143) of base material, the base material is then shaped such that the first and third

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layer move toward each other such that the second layer is completely surrounded by the first layer. The advantage of this is to offer more moisture and better protection for the plant. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified culture medium of Kalbskopf to have multiple layers and to be shaped as taught by Hori et al in order to offer more moisture and better protection for the plant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Mansen
Supervisory Patent Examiner
Art Unit 3644

MW 07/08/2008

/Peter M. Poon/

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